

106TH CONGRESS
1ST SESSION

S. 1454

To amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools and to provide tax incentives for corporations to participate in cooperative agreements with public schools in distressed areas.

IN THE SENATE OF THE UNITED STATES

JULY 28, 1999

Mr. ROBB (for himself, Mr. LAUTENBERG, Mr. CONRAD, Mr. HARKIN, Mr. KENNEDY, Mr. DASCHLE, Mr. REID, Mrs. MURRAY, Mr. LEVIN, Mr. CLELAND, Mr. DODD, Mr. TORRICELLI, Mr. SCHUMER, Mrs. LINCOLN, Mr. JOHNSON, Mr. WELLSTONE, Mr. KERRY, Mr. KERREY, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools and to provide tax incentives for corporations to participate in cooperative agreements with public schools in distressed areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public School Mod-
5 ernization and Overcrowding Relief Act of 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Record numbers of students are enrolled in
4 our Nation's elementary and secondary schools and
5 that record is expected to be broken every year
6 through 2007. The record numbers are straining
7 many school facilities. Addressing that growth will
8 require an increasing commitment of resources to
9 build and modernize schools, and to hire and train
10 new teachers. In addition, the increasing use of tech-
11 nology in the workplace is creating new demands to
12 incorporate computers and other high-technology
13 equipment into the classroom and into curricula.

14 (2) The General Accounting Office (in this sec-
15 tion referred to as the "GAO") has performed a
16 comprehensive survey of the Nation's public elemen-
17 tary and secondary school facilities and has found
18 severe levels of disrepair in all areas of the United
19 States. The GAO report concluded that more than
20 14,000,000 children attend schools in need of exten-
21 sive repair or replacement, 7,000,000 children at-
22 tend schools with life safety code violations, and
23 12,000,000 children attend schools with leaky roofs.

24 (3) The General Accounting Office has found
25 the problem of crumbling schools transcends demo-
26 graphic and geographic boundaries. At 38 percent of

1 urban schools, 30 percent of rural schools, and 29
2 percent of suburban schools, at least one building is
3 in need of extensive repair or should be completely
4 replaced.

5 (4) The condition of school facilities has a di-
6 rect effect on the safety of students and teachers
7 and on the ability of students to learn. Academic re-
8 search has provided a direct correlation between the
9 condition of school facilities and student achieve-
10 ment. At Georgetown University, researchers have
11 found the test scores of students assigned to schools
12 in poor condition can be expected to fall 10.9 per-
13 centage points below the test scores of students in
14 buildings in excellent condition. Similar studies have
15 demonstrated up to a 20 percent improvement in
16 test scores when students were moved from a poor
17 facility to a new facility.

18 (5) Furthermore, a recent study by the Envi-
19 ronmental Working Group concluded that portable
20 trailers, utilized by many school districts to accom-
21 modate school over-crowding, can “expose children
22 to toxic chemicals at levels that pose an unaccept-
23 able risk of cancer or other serious illnesses.” Be-
24 cause ventilation in portable trailers is poor, the pol-
25 lution through the build-up of toxins can be signifi-

1 cant. This is particularly hazardous to those children
2 who have asthma. The prevalence of asthma in chil-
3 dren increased by 160 percent between 1980 and
4 1994. The report also stated, “Schools are facing
5 two epidemics: an epidemic of deteriorating facilities
6 and an epidemic of asthma among children.”

7 (6) The General Accounting Office has found
8 most schools are not prepared to incorporate modern
9 technology in the classroom. Forty-six percent of
10 schools lack adequate electrical wiring to support the
11 full-scale use of technology. More than a third of
12 schools lack the requisite electrical power. Fifty-six
13 percent of schools have insufficient phone lines for
14 modems.

15 (7) The Department of Education has reported
16 that elementary and secondary school enrollment, al-
17 ready at a record high level, will continue to grow
18 over the next 10 years, and that in order to accom-
19 modate this growth, the United States will need to
20 build an additional 2,400 schools.

21 (8) The General Accounting Office has deter-
22 mined the cost of bringing schools up to good, over-
23 all condition to be \$112,000,000,000, not including
24 the cost of modernizing schools to accommodate

1 technology, or the cost of building additional facili-
2 ties needed to meet record enrollment levels.

3 (9) Schools run by the Bureau of Indian Affairs
4 (in this section referred to as the “BIA”) for Native
5 American children are also in dire need of repair
6 and renovation. The General Accounting Office has
7 reported that the cost of total inventory repairs
8 needed for BIA facilities is \$754,000,000. The De-
9 cember 1997 report by the Comptroller General of
10 the United States states that, “Compared with other
11 schools nationally, BIA schools are generally in poor-
12 er physical condition, have more unsatisfactory envi-
13 ronmental factors, more often lack key facilities re-
14 quirements for education reform, and are less able
15 to support computer and communications tech-
16 nology.”

17 (10) Across the Nation, schools will need to re-
18 cruit and hire an additional 2,000,000 teachers dur-
19 ing the period from 1998 through 2008. More than
20 200,000 teachers will be needed annually, yet cur-
21 rent teacher development programs produce only
22 100,000 to 150,000 teachers per year. This level of
23 recruitment is simply the level needed to maintain
24 existing student-teacher ratios.

1 (11) The rapid growth in the student popu-
 2 lation, in addition to the imminent shortage of quali-
 3 fied teachers and recent efforts by Congress to help
 4 States reduce class size, present urgent infrastruc-
 5 ture needs across the Nation.

6 (12) State and local financing mechanisms have
 7 proven inadequate to meet the challenges facing to-
 8 day's aging school facilities. Large numbers of local
 9 educational agencies have difficulties securing fi-
 10 nancing for school facility improvement.

11 (13) The Federal Government has provided re-
 12 sources for school construction in the past. For ex-
 13 ample, between 1933 and 1939, the Federal Govern-
 14 ment assisted in 70 percent of all new school con-
 15 struction.

16 (14) The Federal Government can support ele-
 17 mentary and secondary school facilities without
 18 interfering in issues of local control, and should help
 19 communities leverage additional funds for the im-
 20 provement of elementary and secondary school facili-
 21 ties.

22 **SEC. 3. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.**

23 (a) IN GENERAL.—Chapter 1 of the Internal Rev-
 24 enue Code of 1986 is amended by adding at the end the
 25 following new subchapter:

1 **“Subchapter X—Public School Modernization**
 2 **Provisions**

“Part I. Credit to holders of qualified public school modernization bonds.

“Part II. Qualified school construction bonds.

“Part III. Incentives for education zones.

3 **“PART I—CREDIT TO HOLDERS OF QUALIFIED**
 4 **PUBLIC SCHOOL MODERNIZATION BONDS**

“Sec. 1400F. Credit to holders of qualified public school modernization bonds.

5 **“SEC. 1400F. CREDIT TO HOLDERS OF QUALIFIED PUBLIC**
 6 **SCHOOL MODERNIZATION BONDS.**

7 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
 8 payer who holds a qualified public school modernization
 9 bond on a credit allowance date of such bond which occurs
 10 during the taxable year, there shall be allowed as a credit
 11 against the tax imposed by this chapter for such taxable
 12 year an amount equal to the sum of the credits determined
 13 under subsection (b) with respect to credit allowance dates
 14 during such year on which the taxpayer holds such bond.

15 “(b) AMOUNT OF CREDIT.—

16 “(1) IN GENERAL.—The amount of the credit
 17 determined under this subsection with respect to any
 18 credit allowance date for a qualified public school
 19 modernization bond is 25 percent of the annual
 20 credit determined with respect to such bond.

1 “(2) ANNUAL CREDIT.—The annual credit de-
 2 termined with respect to any qualified public school
 3 modernization bond is the product of—

4 “(A) the applicable credit rate, multiplied
 5 by

6 “(B) the outstanding face amount of the
 7 bond.

8 “(3) APPLICABLE CREDIT RATE.—For purposes
 9 of paragraph (1), the applicable credit rate with re-
 10 spect to an issue is the rate equal to an average
 11 market yield (as of the day before the date of
 12 issuance of the issue) on outstanding long-term cor-
 13 porate debt obligations (determined under regula-
 14 tions prescribed by the Secretary).

15 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
 16 DEMPTION.—In the case of a bond which is issued
 17 during the 3-month period ending on a credit allow-
 18 ance date, the amount of the credit determined
 19 under this subsection with respect to such credit al-
 20 lowance date shall be a ratable portion of the credit
 21 otherwise determined based on the portion of the 3-
 22 month period during which the bond is outstanding.
 23 A similar rule shall apply when the bond is re-
 24 deemed.

25 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

1 “(1) IN GENERAL.—The credit allowed under
2 subsection (a) for any taxable year shall not exceed
3 the excess of—

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under part IV of subchapter A (other than sub-
9 part C thereof, relating to refundable credits).

10 “(2) CARRYOVER OF UNUSED CREDIT.—If the
11 credit allowable under subsection (a) exceeds the
12 limitation imposed by paragraph (1) for such taxable
13 year, such excess shall be carried to the succeeding
14 taxable year and added to the credit allowable under
15 subsection (a) for such taxable year.

16 “(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION
17 BOND; CREDIT ALLOWANCE DATE.—For purposes of this
18 section—

19 “(1) QUALIFIED PUBLIC SCHOOL MODERNIZA-
20 TION BOND.—The term ‘qualified public school mod-
21 ernization bond’ means—

22 “(A) a qualified school construction bond,
23 and

24 “(B) a qualified zone academy bond.

1 “(2) CREDIT ALLOWANCE DATE.—The term
2 ‘credit allowance date’ means—

3 “(A) March 15,

4 “(B) June 15,

5 “(C) September 15, and

6 “(D) December 15.

7 Such term includes the last day on which the bond
8 is outstanding.

9 “(e) OTHER DEFINITIONS.—For purposes of this
10 subchapter—

11 “(1) LOCAL EDUCATIONAL AGENCY.—The term
12 ‘local educational agency’ has the meaning given to
13 such term by section 14101 of the Elementary and
14 Secondary Education Act of 1965. Such term in-
15 cludes the local educational agency that serves the
16 District of Columbia but does not include any other
17 State agency.

18 “(2) BOND.—The term ‘bond’ includes any ob-
19 ligation.

20 “(3) STATE.—The term ‘State’ includes the
21 District of Columbia and any possession of the
22 United States.

23 “(4) PUBLIC SCHOOL FACILITY.—The term
24 ‘public school facility’ shall not include any facility
25 which is not owned by a State or local government

1 or any agency or instrumentality of a State or local
2 government.

3 “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross
4 income includes the amount of the credit allowed to the
5 taxpayer under this section (determined without regard to
6 subsection (c)) and the amount so included shall be treat-
7 ed as interest income.

8 “(g) BONDS HELD BY REGULATED INVESTMENT
9 COMPANIES.—If any qualified public school modernization
10 bond is held by a regulated investment company, the credit
11 determined under subsection (a) shall be allowed to share-
12 holders of such company under procedures prescribed by
13 the Secretary.

14 “(h) CREDITS MAY BE STRIPPED.—Under regula-
15 tions prescribed by the Secretary—

16 “(1) IN GENERAL.—There may be a separation
17 (including at issuance) of the ownership of a quali-
18 fied public school modernization bond and the enti-
19 tlement to the credit under this section with respect
20 to such bond. In case of any such separation, the
21 credit under this section shall be allowed to the per-
22 son who on the credit allowance date holds the in-
23 strument evidencing the entitlement to the credit
24 and not to the holder of the bond.

13 “(j) CREDIT MAY BE TRANSFERRED.—Nothing in
14 any law or rule of law shall be construed to limit the trans-
15 ferability of the credit allowed by this section through sale
16 and repurchase agreements.

20 “(1) **TERMINATION.**—This section shall not apply to
21 any bond issued after September 30, 2005.

“Sec. 1400G. Qualified school construction bonds.

1 **“SEC. 1400G. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

2 **“(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—**

3 For purposes of this subchapter, the term ‘qualified school
4 construction bond’ means any bond issued as part of an
5 issue if—

6 “(1) 95 percent or more of the proceeds of such
7 issue are to be used for the construction, rehabilita-
8 tion, or repair of a public school facility or for the
9 acquisition of land on which such a facility is to be
10 constructed with part of the proceeds of such issue,

11 “(2) the bond is issued by a State or local gov-
12 ernment within the jurisdiction of which such school
13 is located,

14 “(3) the issuer designates such bond for pur-
15 poses of this section, and

16 “(4) the term of each bond which is part of
17 such issue does not exceed 15 years.

18 **“(b) LIMITATION ON AMOUNT OF BONDS DES-**
19 **IGNATED.—**The maximum aggregate face amount of
20 bonds issued during any calendar year which may be des-
21 ignated under subsection (a) by any issuer shall not exceed
22 the sum of—

23 “(1) the limitation amount allocated under sub-
24 section (d) for such calendar year to such issuer,
25 and

1 “(2) if such issuer is a large local educational
 2 agency (as defined in subsection (e)(4)) or is issuing
 3 on behalf of such an agency, the limitation amount
 4 allocated under subsection (e) for such calendar year
 5 to such agency.

6 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
 7 DESIGNATED.—There is a national qualified school con-
 8 struction bond limitation for each calendar year. Such lim-
 9 itation is—

10 “(1) \$11,800,000,000 for 2001,

11 “(2) \$11,800,000,000 for 2005, and

12 “(3) except as provided in subsection (f), zero
 13 after 2001 and before 2005, and after 2005.

14 “(d) SIXTY-FIVE PERCENT OF LIMITATION ALLO-
 15 CATED AMONG STATES.—

16 “(1) IN GENERAL.—Sixty-five percent of the
 17 limitation applicable under subsection (c) for any
 18 calendar year shall be allocated among the States
 19 under paragraph (2) by the Secretary. The limita-
 20 tion amount allocated to a State under the preceding
 21 sentence shall be allocated by the State to issuers
 22 within such State and such allocations may be made
 23 only if there is an approved State application.

24 “(2) ALLOCATION FORMULA.—The amount to
 25 be allocated under paragraph (1) for any calendar

1 year shall be allocated among the States in propor-
 2 tion to the respective amounts each such State re-
 3 ceived for Basic Grants under subpart 2 of part A
 4 of title I of the Elementary and Secondary Edu-
 5 cation Act of 1965 (20 U.S.C. 6331 et seq.) for the
 6 most recent fiscal year ending before such calendar
 7 year. For purposes of the preceding sentence, Basic
 8 Grants attributable to large local educational agen-
 9 cies (as defined in subsection (e)) shall be dis-
 10 regarded.

11 “(3) MINIMUM ALLOCATIONS TO STATES.—

12 “(A) IN GENERAL.—The Secretary shall
 13 adjust the allocations under this subsection for
 14 any calendar year for each State to the extent
 15 necessary to ensure that the sum of—

16 “(i) the amount allocated to such
 17 State under this subsection for such year,
 18 and

19 “(ii) the aggregate amounts allocated
 20 under subsection (e) to large local edu-
 21 cational agencies in such State for such
 22 year,

23 is not less than an amount equal to such
 24 State’s minimum percentage of the amount to

1 be allocated under paragraph (1) for the cal-
 2 endar year.

3 “(B) MINIMUM PERCENTAGE.—A State’s
 4 minimum percentage for any calendar year is
 5 the minimum percentage described in section
 6 1124(d) of the Elementary and Secondary Edu-
 7 cation Act of 1965 (20 U.S.C. 6334(d)) for
 8 such State for the most recent fiscal year end-
 9 ing before such calendar year.

10 “(4) ALLOCATIONS TO CERTAIN POSSES-
 11 SIONS.—The amount to be allocated under para-
 12 graph (1) to any possession of the United States
 13 other than Puerto Rico shall be the amount which
 14 would have been allocated if all allocations under
 15 paragraph (1) were made on the basis of respective
 16 populations of individuals below the poverty line (as
 17 defined by the Office of Management and Budget).
 18 In making other allocations, the amount to be allo-
 19 cated under paragraph (1) shall be reduced by the
 20 aggregate amount allocated under this paragraph to
 21 possessions of the United States.

22 “(5) ALLOCATIONS FOR INDIAN SCHOOLS.—In
 23 addition to the amounts otherwise allocated under
 24 this subsection, \$200,000,000 for calendar year
 25 2001, and \$200,000,000 for calendar year 2005,

1 shall be allocated by the Secretary of the Interior for
 2 purposes of the construction, rehabilitation, and re-
 3 pair of schools funded by the Bureau of Indian Af-
 4 fairs. In the case of amounts allocated under the
 5 preceding sentence, Indian tribal governments (as
 6 defined in section 7871) shall be treated as qualified
 7 issuers for purposes of this subchapter.

8 “(6) APPROVED STATE APPLICATION.—For
 9 purposes of paragraph (1), the term ‘approved State
 10 application’ means an application which is approved
 11 by the Secretary of Education and which includes—

12 “(A) the results of a recent publicly-avail-
 13 able survey (undertaken by the State with the
 14 involvement of local education officials, mem-
 15 bers of the public, and experts in school con-
 16 struction and management) of such State’s
 17 needs for public school facilities, including de-
 18 scriptions of—

19 “(i) health and safety problems at
 20 such facilities,

21 “(ii) the capacity of public schools in
 22 the State to house projected enrollments,
 23 and

24 “(iii) the extent to which the public
 25 schools in the State offer the physical in-

1 frastructure needed to provide a high-quality
2 education to all students, and

3 “(B) a description of how the State will al-
4 locate to local educational agencies, or other-
5 wise use, its allocation under this subsection to
6 address the needs identified under subpara-
7 graph (A), including a description of how it
8 will—

9 “(i) give highest priority to localities
10 with the greatest needs, as demonstrated
11 by inadequate school facilities coupled with
12 a low level of resources to meet those
13 needs,

14 “(ii) use its allocation under this sub-
15 section to assist localities that lack the fis-
16 cal capacity to issue bonds on their own,
17 and

18 “(iii) ensure that its allocation under
19 this subsection is used only to supplement,
20 and not supplant, the amount of school
21 construction, rehabilitation, and repair in
22 the State that would have occurred in the
23 absence of such allocation.

24 Any allocation under paragraph (1) by a State shall
25 be binding if such State reasonably determined that

1 the allocation was in accordance with the plan ap-
 2 proved under this paragraph.

3 “(e) THIRTY-FIVE PERCENT OF LIMITATION ALLO-
 4 CATED AMONG LARGEST SCHOOL DISTRICTS.—

5 “(1) IN GENERAL.—Thirty-five percent of the
 6 limitation applicable under subsection (c) for any
 7 calendar year shall be allocated under paragraph (2)
 8 by the Secretary among local educational agencies
 9 which are large local educational agencies for such
 10 year. No qualified school construction bond may be
 11 issued by reason of an allocation to a large local
 12 educational agency under the preceding sentence un-
 13 less such agency has an approved local application.

14 “(2) ALLOCATION FORMULA.—The amount to
 15 be allocated under paragraph (1) for any calendar
 16 year shall be allocated among large local educational
 17 agencies in proportion to the respective amounts
 18 each such agency received for Basic Grants under
 19 subpart 2 of part A of title I of the Elementary and
 20 Secondary Education Act of 1965 (20 U.S.C. 6331
 21 et seq.) for the most recent fiscal year ending before
 22 such calendar year.

23 “(3) ALLOCATION OF UNUSED LIMITATION TO
 24 STATE.—The amount allocated under this subsection
 25 to a large local educational agency for any calendar

1 year may be reallocated by such agency to the State
 2 in which such agency is located for such calendar
 3 year. Any amount reallocated to a State under the
 4 preceding sentence may be allocated as provided in
 5 subsection (d)(1).

6 “(4) LARGE LOCAL EDUCATIONAL AGENCY.—
 7 For purposes of this section, the term ‘large local
 8 educational agency’ means, with respect to a cal-
 9 endar year, any local educational agency if such
 10 agency is—

11 “(A) among the 100 local educational
 12 agencies with the largest numbers of children
 13 aged 5 through 17 from families living below
 14 the poverty level, as determined by the Sec-
 15 retary using the most recent data available
 16 from the Department of Commerce that are
 17 satisfactory to the Secretary, or

18 “(B) 1 of not more than 25 local edu-
 19 cational agencies (other than those described in
 20 subparagraph (A)) that the Secretary of Edu-
 21 cation determines (based on the most recent
 22 data available satisfactory to the Secretary) are
 23 in particular need of assistance, based on a low
 24 level of resources for school construction, a high

1 level of enrollment growth, or such other factors
 2 as the Secretary deems appropriate.

3 “(5) APPROVED LOCAL APPLICATION.—For
 4 purposes of paragraph (1), the term ‘approved local
 5 application’ means an application which is approved
 6 by the Secretary of Education and which includes—

7 “(A) the results of a recent publicly-avail-
 8 able survey (undertaken by the local educational
 9 agency or the State with the involvement of
 10 school officials, members of the public, and ex-
 11 perts in school construction and management)
 12 of such agency’s needs for public school facili-
 13 ties, including descriptions of—

14 “(i) the overall condition of the local
 15 educational agency’s school facilities, in-
 16 cluding health and safety problems,

17 “(ii) the overcrowded conditions of the
 18 agency’s schools and the capacity of such
 19 schools to house projected enrollments, and

20 “(iii) the extent to which the agency’s
 21 schools offer the physical infrastructure
 22 needed to provide a high-quality education
 23 to all students,

24 “(B) a description of how the local edu-
 25 cational agency will use its allocation under this

1 subsection to address the needs identified under
2 subparagraph (A), including a description of
3 how the agency will—

4 “(i) give high priority to localities
5 with the greatest needs, as demonstrated
6 by inadequate school facilities coupled with
7 a low level of resources to meet those
8 needs,

9 “(ii) use its allocation under this sub-
10 section to assist localities that lack the fis-
11 cal capacity to issue bonds on their own,

12 “(iii) ensure that its allocation under
13 this subsection is used only to supplement,
14 and not supplant, the amount of school
15 construction, rehabilitation, and repair in
16 the State that would have occurred in the
17 absence of such allocation, and

18 “(iv) ensure that the needs of both
19 rural and urban areas are recognized, and

20 “(C) a description of how the local edu-
21 cational agency will ensure that its allocation
22 under this subsection is used only to supple-
23 ment, and not supplant, the amount of school
24 construction, rehabilitation, or repair in the lo-

1 cality that would have occurred in the absence
2 of such allocation.

3 A rule similar to the rule of the last sentence of sub-
4 section (d)(6) shall apply for purposes of this para-
5 graph.

6 “(f) CARRYOVER OF UNUSED LIMITATION.—If for
7 any calendar year—

8 “(1) the amount allocated under subsection (d)
9 to any State, exceeds

10 “(2) the amount of bonds issued during such
11 year which are designated under subsection (a) pur-
12 suant to such allocation,

13 the limitation amount under such subsection for such
14 State for the following calendar year shall be increased
15 by the amount of such excess. A similar rule shall apply
16 to the amounts allocated under subsection (d)(5) or (e).

17 “(g) SPECIAL RULES RELATING TO ARBITRAGE.—

18 “(1) IN GENERAL.—A bond shall not be treated
19 as failing to meet the requirement of subsection
20 (a)(1) solely by reason of the fact that the proceeds
21 of the issue of which such bond is a part are in-
22 vested for a temporary period (but not more than 36
23 months) until such proceeds are needed for the pur-
24 pose for which such issue was issued.

1 “(2) BINDING COMMITMENT REQUIREMENT.—

2 Paragraph (1) shall apply to an issue only if, as of
3 the date of issuance, there is a reasonable expecta-
4 tion that—

5 “(A) at least 10 percent of the proceeds of
6 the issue will be spent within the 6-month pe-
7 riod beginning on such date for the purpose for
8 which such issue was issued, and

9 “(B) the remaining proceeds of the issue
10 will be spent with due diligence for such pur-
11 pose.

12 “(3) EARNINGS ON PROCEEDS.—Any earnings
13 on proceeds during the temporary period shall be
14 treated as proceeds of the issue for purposes of ap-
15 plying subsection (a)(1) and paragraph (1) of this
16 subsection.

17 **“PART III—INCENTIVES FOR EDUCATION ZONES**

“Sec. 1400H. Qualified zone academy bonds.

18 **“SEC. 1400H. QUALIFIED ZONE ACADEMY BONDS.**

19 “(a) QUALIFIED ZONE ACADEMY BOND.—For pur-
20 poses of this subchapter—

21 “(1) IN GENERAL.—The term ‘qualified zone
22 academy bond’ means any bond issued as part of an
23 issue if—

1 “(A) 95 percent or more of the proceeds of
 2 such issue are to be used for a qualified pur-
 3 pose with respect to a qualified zone academy
 4 established by a local educational agency,

5 “(B) the bond is issued by a State or local
 6 government within the jurisdiction of which
 7 such academy is located,

8 “(C) the issuer—

9 “(i) designates such bond for purposes
 10 of this section,

11 “(ii) certifies that it has written as-
 12 surances that the private business con-
 13 tribution requirement of paragraph (2) will
 14 be met with respect to such academy, and

15 “(iii) certifies that it has the written
 16 approval of the local educational agency
 17 for such bond issuance, and

18 “(D) the term of each bond which is part
 19 of such issue does not exceed 15 years.

20 Rules similar to the rules of section 1400G(g) shall
 21 apply for purposes of paragraph (1).

22 “(2) PRIVATE BUSINESS CONTRIBUTION RE-
 23 QUIREMENT.—

24 “(A) IN GENERAL.—For purposes of para-
 25 graph (1), the private business contribution re-

quirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

“(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term ‘qualified contribution’ means any contribution (of a type and quality acceptable to the local educational agency) of—

“(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

“(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

“(iii) services of employees as volunteer mentors,

“(iv) internships, field trips, or other educational opportunities outside the academy for students, or

1 “(v) any other property or service
2 specified by the local educational agency.

3 “(3) QUALIFIED ZONE ACADEMY.—The term
4 ‘qualified zone academy’ means any public school (or
5 academic program within a public school) which is
6 established by and operated under the supervision of
7 a local educational agency to provide education or
8 training below the postsecondary level if—

9 “(A) such public school or program (as the
10 case may be) is designed in cooperation with
11 business to enhance the academic curriculum,
12 increase graduation and employment rates, and
13 better prepare students for the rigors of college
14 and the increasingly complex workforce,

15 “(B) students in such public school or pro-
16 gram (as the case may be) will be subject to the
17 same academic standards and assessments as
18 other students educated by the local educational
19 agency,

20 “(C) the comprehensive education plan of
21 such public school or program is approved by
22 the local educational agency, and

23 “(D)(i) such public school is located in an
24 empowerment zone or enterprise community
25 (including any such zone or community des-

1 ignated after the date of the enactment of this
2 section), or

3 “(ii) there is a reasonable expectation (as
4 of the date of issuance of the bonds) that at
5 least 35 percent of the students attending such
6 school or participating in such program (as the
7 case may be) will be eligible for free or reduced-
8 cost lunches under the school lunch program es-
9 tablished under the National School Lunch Act.

10 “(4) QUALIFIED PURPOSE.—The term ‘quali-
11 fied purpose’ means, with respect to any qualified
12 zone academy—

13 “(A) constructing, rehabilitating, or repair-
14 ing the public school facility in which the acad-
15 emy is established,

16 “(B) acquiring the land on which such fa-
17 cility is to be constructed with part of the pro-
18 ceeds of such issue,

19 “(C) providing equipment for use at such
20 academy,

21 “(D) developing course materials for edu-
22 cation to be provided at such academy, and

23 “(E) training teachers and other school
24 personnel in such academy.

1 “(b) LIMITATIONS ON AMOUNT OF BONDS DES-
2 IGNATED.—

3 “(1) IN GENERAL.—There is a national zone
4 academy bond limitation for each calendar year.
5 Such limitation is—

6 “(A) \$400,000,000 for 1998,

7 “(B) \$400,000,000 for 1999,

8 “(C) \$400,000,000 for 2000,

9 “(D) \$400,000,000 for 2001, and

10 “(C) except as provided in paragraph (3),
11 zero after 1999.

12 “(2) ALLOCATION OF LIMITATION.—

13 “(A) ALLOCATION AMONG STATES.—

14 “(i) 1998 AND 1999 LIMITATIONS.—

15 The national zone academy bond limita-
16 tions for calendar years 1998 and 1999
17 shall be allocated by the Secretary among
18 the States on the basis of their respective
19 populations of individuals below the pov-
20 erty line (as defined by the Office of Man-
21 agement and Budget).

22 “(ii) LIMITATION AFTER 1999.—The
23 national zone academy bond limitation for
24 any calendar year after 1999 shall be allo-
25 cated by the Secretary among the States in

1 the manner prescribed by section
 2 1400G(d); except that in making the allo-
 3 cation under this clause, the Secretary
 4 shall take into account—

5 “(I) Basic Grants attributable to
 6 large local educational agencies (as
 7 defined in section 1400G(e)(4)).

8 “(II) the national zone academy
 9 bond limitation.

10 “(B) ALLOCATION TO LOCAL EDU-
 11 CATIONAL AGENCIES.—The limitation amount
 12 allocated to a State under subparagraph (A)
 13 shall be allocated by the State education agency
 14 to qualified zone academies within such State.

15 “(C) DESIGNATION SUBJECT TO LIMITA-
 16 TION AMOUNT.—The maximum aggregate face
 17 amount of bonds issued during any calendar
 18 year which may be designated under subsection
 19 (a) with respect to any qualified zone academy
 20 shall not exceed the limitation amount allocated
 21 to such academy under subparagraph (B) for
 22 such calendar year.

23 “(3) CARRYOVER OF UNUSED LIMITATION.—If
 24 for any calendar year—

1 “(A) the limitation amount under this sub-
2 section for any State, exceeds

3 “(B) the amount of bonds issued during
4 such year which are designated under sub-
5 section (a) (or the corresponding provisions of
6 prior law) with respect to qualified zone acad-
7 emies within such State,
8 the limitation amount under this subsection for such
9 State for the following calendar year shall be in-
10 creased by the amount of such excess.”

11 (b) REPORTING.—Subsection (d) of section 6049 of
12 the Internal Revenue Code of 1986 (relating to returns
13 regarding payments of interest) is amended by adding at
14 the end the following new paragraph:

15 “(8) REPORTING OF CREDIT ON QUALIFIED
16 PUBLIC SCHOOL MODERNIZATION BONDS.—

17 “(A) IN GENERAL.—For purposes of sub-
18 section (a), the term ‘interest’ includes amounts
19 includible in gross income under section
20 1400F(f) and such amounts shall be treated as
21 paid on the credit allowance date (as defined in
22 section 1400F(d)(2)).

23 “(B) REPORTING TO CORPORATIONS,
24 ETC.—Except as otherwise provided in regula-
25 tions, in the case of any interest described in

subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

“(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”

(c) CONFORMING AMENDMENTS.—

(1) Subchapter U of chapter 1 of the Internal Revenue Code of 1986 is amended by striking part IV, by redesignating part V as part IV, and by redesignating section 1397F as section 1397E.

(2) The table of subchapters for chapter 1 of such Code is amended by adding at the end the following new item:

“Subchapter X. Public school modernization provisions.”

(3) The table of parts of subchapter U of chapter 1 of such Code is amended by striking the last 2 items and inserting the following item:

“Part IV. Regulations.”

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section

1 shall apply to obligations issued after December 31,
2 1999.

3 (2) REPEAL OF RESTRICTION ON ZONE ACAD-
4 EMY BOND HOLDERS.—In the case of bonds to
5 which section 1397E of the Internal Revenue Code
6 of 1986 (as in effect before the date of the enact-
7 ment of this Act) applies, the limitation of such sec-
8 tion to eligible taxpayers (as defined in subsection
9 (d)(6) of such section) shall not apply after the date
10 of the enactment of this Act.

11 **SEC. 4. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL**
12 **FACILITY BONDS AS EXEMPT FACILITY**
13 **BONDS.**

14 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-
15 section (a) of section 142 of the Internal Revenue Code
16 of 1986 (relating to exempt facility bond) is amended by
17 striking “or” at the end of paragraph (11), by striking
18 the period at the end of paragraph (12) and inserting “,
19 or”, and by adding at the end the following:

20 “(13) qualified public educational facilities.”

21 (b) QUALIFIED PUBLIC EDUCATIONAL FACILI-
22 TIES.—Section 142 of the Internal Revenue Code of 1986
23 (relating to exempt facility bond) is amended by adding
24 at the end the following new subsection:

1 “(k) QUALIFIED PUBLIC EDUCATIONAL FACILI-
2 TIES.—

3 “(1) IN GENERAL.—For purposes of subsection
4 (a)(13), the term ‘qualified public educational facil-
5 ity’ means any school facility which is—

6 “(A) part of a public elementary school or
7 a public secondary school,

8 “(B) owned by a private, for-profit cor-
9 poration pursuant to a public-private partner-
10 ship agreement with a State or local edu-
11 cational agency described in paragraph (2), and

12 “(C) operated as if such facility was owned
13 by such agency.

14 “(2) PUBLIC-PRIVATE PARTNERSHIP AGREE-
15 MENT DESCRIBED.—A public-private partnership
16 agreement is described in this paragraph if it is an
17 agreement—

18 “(A) under which the corporation agrees—

19 “(i) to do 1 or more of the following:
20 construct, rehabilitate, refurbish, or equip
21 a school facility, and

22 “(ii) at the end of the term of the
23 agreement, to transfer the school facility to
24 such agency for no additional consider-
25 ation, and

1 “(B) the term of which does not exceed the
 2 term of the issue to be used to provide the
 3 school facility.

4 “(3) SCHOOL FACILITY.—For purposes of this
 5 subsection, the term ‘school facility’ means—

6 “(A) school buildings,

7 “(B) functionally related and subordinate
 8 facilities and land with respect to such build-
 9 ings, and

10 “(C) any property, to which section 168
 11 applies (or would apply but for section 179), for
 12 use in the facility.

13 “(4) PUBLIC SCHOOLS.—For purposes of this
 14 subsection, the terms ‘elementary school’ and ‘sec-
 15 ondary school’ have the meanings given such terms
 16 by section 14101 of the Elementary and Secondary
 17 Education Act of 1965 (20 U.S.C. 8801), as in ef-
 18 fect on the date of the enactment of this subsection.

19 “(5) ANNUAL AGGREGATE FACE AMOUNT OF
 20 TAX-EXEMPT FINANCING.—

21 “(A) IN GENERAL.—An issue shall not be
 22 treated as an issue described in subsection
 23 (a)(13) if the aggregate face amount of bonds
 24 issued by the State pursuant thereto (when
 25 added to the aggregate face amount of bonds

previously so issued during the calendar year)
exceeds an amount equal to the greater of—

“(i) \$10 multiplied by the State population, or

“(ii) \$5,000,000.

“(B) ALLOCATION RULES.—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the State may allocate in a calendar year the amount described in subparagraph (A) for such year in such manner as the State determines appropriate.

“(ii) RULES FOR CARRYFORWARD OF UNUSED AMOUNT.—With respect to any calendar year, a State may make an election under rules similar to the rules of section 146(f), except that the sole carryforward purpose with respect to such election is the issuance of exempt facility bonds described in section 142(a)(13).”

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended—

1 (1) by striking “or (12)” and inserting “(12),
2 or (13)”, and

3 (2) by striking “and environmental enhance-
4 ments of hydroelectric generating facilities” and in-
5 serting “environmental enhancements of hydro-
6 electric generating facilities, and qualified public
7 educational facilities”.

8 (d) EXEMPTION FROM LIMITATION ON USE FOR
9 LAND ACQUISITION.—Section 147(h) of the Internal Rev-
10 enue Code of 1986 (relating to certain rules not to apply
11 to mortgage revenue bonds, qualified student loan bonds,
12 and qualified 501(c)(3) bonds) is amended by adding at
13 the end the following new paragraph:

14 “(3) EXEMPT FACILITY BONDS FOR QUALIFIED
15 PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not
16 apply to any exempt facility bond issued as part of
17 an issue described in section 142(a)(13) (relating to
18 qualified public educational facility bonds).”

19 (e) CONFORMING AMENDMENT.—The heading of sec-
20 tion 147(h) of the Internal Revenue Code of 1986 is
21 amended by striking “MORTGAGE REVENUE BONDS,
22 QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED
23 501(c)(3) BONDS” in the heading and inserting “CERTAIN
24 BONDS”.

1 (f) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to bonds issued after December
 3 31, 1999.

4 **SEC. 5. ADDITIONAL INCREASE IN ARBITRAGE REBATE EX-**
 5 **CEPTION FOR GOVERNMENTAL BONDS USED**
 6 **TO FINANCE EDUCATIONAL FACILITIES.**

7 (a) IN GENERAL.—Section 148(f)(4)(D)(vii) of the
 8 Internal Revenue Code of 1986 (relating to increase in
 9 exception for bonds financing public school capital expend-
 10 itures) is amended by striking “\$5,000,000” the second
 11 place it appears and inserting “\$10,000,000”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall apply to obligations issued in calendar
 14 years beginning after December 31, 1999.

15 **SEC. 6. AMENDMENTS TO ENCOURAGE ADDITIONAL**
 16 **SCHOOL CONSTRUCTION.**

17 (a) IN GENERAL.—Clause (i) of section 149(d)(3)(A)
 18 of the Internal Revenue Code of 1986 (relating to other
 19 bonds) is amended—

20 (1) by striking “or” at the end of subclause (I),

21 (2) by adding “or” at the end of subclause (II),

22 and

23 (3) by inserting after subclause (II) the fol-
 24 lowing:

1 “(III) the 2d advance refunding
 2 of the original bond if the original
 3 bond was issued after 1985 or the 3d
 4 advance refunding of the original
 5 bond if the original bond was issued
 6 before 1986 if, in either case, at least
 7 25 percent of the proceeds of the
 8 original bond were used, directly or
 9 indirectly, for the construction, recon-
 10 struction, or rehabilitation of public
 11 elementary and secondary school fa-
 12 cilities or for the acquisition of land
 13 which is functionally related and sub-
 14 ordinate to such facilities,”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to refunding obligations issued
 17 after December 31, 1999.

18 **SEC. 7. USE OF NET PROCEEDS.**

19 Notwithstanding any other provision of law—

20 (1) section 439(a) of the General Education
 21 Provisions Act shall apply with respect to the con-
 22 struction, reconstruction, rehabilitation, or repair of
 23 any school facility to the extent funded by net pro-
 24 ceeds obtained through any provision enacted or
 25 amended by this Act,

1 (2) such net proceeds may not be used to fund
2 the construction, reconstruction, rehabilitation, or
3 repair of any stadium or other facility primarily
4 used for athletic or non-academic events, and

5 (3) such net proceeds may be used to build
6 small schools or create smaller learning environ-
7 ments within existing public school facilities.

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